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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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MM91/0620

EXAMINER

NEILS, P

ART UNIT

PAPER NUMBER

2875

DATE MAILED:

06/20/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/171,583

Applicant(s)
Baillie-Hamilton

Examiner
Nells

Art Unit
2875



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Apr 5, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 38-72 is/are pending in the application

4a) Of the above, claim(s) 42-44, 46, 48-58, and 64-72 is/are withdrawn from consideration

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 38-41, 45, 47, and 59-63 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5

20) ☐ Other:

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1. Claims 42, 43, 44, 46, 48-58, 64-72 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8. Applicant has made the election to the species shown in Figures 8A-8E. Applicant states that the present invention contains various embodiments of a single inventive concept. The examiner disagrees and maintains that the species as set forth in the election requirement are patentably distinct.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the extension of the containment, the refractor and the means for varying the color must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 38-41, 45, 47, 59-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 38 and 62 set forth that the "containment" houses the light emitting element and that the light conducting element extends "axially from" the containment. Further in the claim it is stated that the light conducting element is aligned coaxially with the light emitting element in the

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containment by means of the containment or an extension thereof. The claim as set forth is not broad enough to provide for the possibility that there is an extension. The claim already sets forth that the light conducting element extends from the containment. That is a positive limitation. The preceding language in the claim already puts both the light emitting element and the light conducting element in the containment. What is Applicant attempting to claim? Claim 39 refers in the alternative to "or each, light conducting element." This language is indefinite. Claim 38 sets forth "a light conducting element." There is no language which supports plural light conducting elements nor does the elected species disclose plural light conducting elements. "Or each" should be deleted from the claim. In Claim 45, the language "to be maintained by means of the plenum about the element for emitting" appears to be indefinite. Perhaps the language should be written as follows --whereby a vacuum or inert gas or a mixture of gases is maintained within the plenum.-- In Claim 47, it is not clear what structure is readable as being the means for varying the color of the light output device. In Claim 62, line 14, "first" is misspelled. Claim 62 is confusing in that the claims sets forth a containment and a sleeve. Based upon the disclosure the sleeve forms the containment. Which structure is readable as the containment and which is readable as the sleeve which extends beyond the length of the light conducting element.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 38-41, 59 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Verderber.

Verderber shows a light outputting device which includes a containment 30 for housing a light emitting element 41, a light conducting element 32 made from quartz glass, and a refractor 41 positioned between the light emitting element and the light conducting element. See Figure 2.

The embodiment shown in Figure 5 shows a reflective surface 50 on the housing surrounding the light emitting element.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 45, 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verderber.

Verderber does not go into detail about the space encompassing the light emitting element other than to state that it is sealed by a compound 42. However, the prior art discussion in column 1 beginning at line 28 discusses the problems with high intensity lamps and vacuum lamps. It obviously contemplated that the invention is directed toward solving the problem of excessive heat build-up caused by these types of lamp. Therefore, it is obvious that the Verderber patent would include a light contained in an envelope which defines a plenum whereby a vacuum or inert gas exists. Also in the absence of any unobvious or unexpected results to have the

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housing/containment/sleeve be longer than the light conducting member is a matter of design choice depending on the intended use for the device.

9. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Verderber in view of Ghandehari.

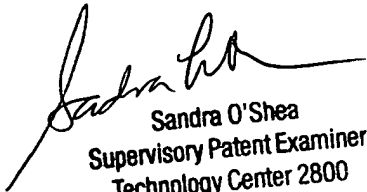
Ghandehari teaches that it is known in the art to vary the color of a light output device. It would be obvious to one skilled in the art that Verderber could be modified to include a filter device in the same manner as taught by Ghandehari because both references are directed to transmitting light by a light conducting member.

10. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Verderber in view of Cecil, Jr..

Cecil, Jr teaches that it is known in the art to use a glass containment 32 for a light emitting element positioned adjacent to a light conducting element. It would have been obvious to one skilled in the art that Vanderber could be modified to have the containment housing made from glass in the same manner as taught by Cecil, Jr. because both references are directed to similar light transmitting devices.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nath, Houston et al, Speelman, Kerr, and Swiss patent 33612 are cited of interest.

12. Any questions regarding this Office action should be directed to Examiner Neils at (703) 308-554.



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